

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARTIN CHRISTIAN SORLIEN,

Defendant-Appellant.

UNPUBLISHED

December 14, 2006

No. 264593

Macomb Circuit Court

LC No. 2004-004313-FC

Before: Owens, P.J., and White and Hoekstra, JJ.

PER CURIAM.

Defendant Martin Christian Sorlien appeals as of right from his convictions for arson of a dwelling, MCL 750.72, and first-degree home invasion, MCL 750.110a(2). He was sentenced to consecutive terms of 50 months to 20 years' imprisonment for each conviction. We affirm.

On the night of July 9 and 10, 2004, defendant encountered Stanley Kowalski at a local bar in Warren, Michigan. An altercation ensued, and defendant was told to leave. Defendant returned to the bar a couple of hours later but was again told to leave. Later that evening, Kowalski and a friend left the bar and returned to Kowalski's trailer. While they were inside, a roll of carpet lying on two chairs in the enclosed porch of Kowalski's trailer was intentionally set on fire. A bicycle stored inside the porch was also propped against the outside storm door leading to the porch, preventing the door from opening from the inside. Police officers responding to an unrelated matter noticed the fire and evacuated Kowalski and his friend. After extinguishing the fire, the officers located defendant near Kowalski's trailer.

First, defendant claims that the prosecution presented insufficient evidence that he willfully and maliciously caused the fire to permit a reasonable fact-finder to convict him of arson. We disagree. We review a claim of insufficient evidence *de novo*. *People v Tombs*, 472 Mich 446, 459; 697 NW2d 494 (2005). We view the evidence in the light most favorable to the prosecution to determine if a rational fact-finder could conclude that the essential elements of the crime were proven beyond a reasonable doubt. *Id.*

MCL 750.72 states:

Any person who wilfully or maliciously burns any dwelling house, either occupied or unoccupied, or the contents thereof, whether owned by himself or another, or any building within the curtilage of such dwelling house, or the

contents thereof, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years.

Arson is often proven through circumstantial evidence because it is rare to have eyewitnesses to the crime. *People v Nowack*, 462 Mich 392, 403 n 2; 614 NW2d 78 (2000), quoting *People v Horowitz*, 37 Mich App 151, 154; 194 NW2d 375 (1971). Circumstantial evidence and reasonable inferences that arise from it can establish the elements of a crime beyond a reasonable doubt. *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999).

The prosecution presented sufficient circumstantial evidence from which a jury could infer that defendant willfully and maliciously set the fire. First, evidence presented at trial established that the fire had been set intentionally. Furthermore, an altercation occurred between defendant and Kowalski at a local bar hours before the fire occurred, and a reasonable juror could presume that defendant was angry with Kowalski and would have a motive to willfully and maliciously damage his trailer. Moreover, witnesses saw defendant walking through the trailer park near Kowalski's residence shortly after police extinguished the fire. If defendant was walking home from the bar, as he claimed, he could have only entered the trailer park if he scaled a tall fence or took an indirect path to use the only park entrance. When police found defendant, they found a disposable cigarette lighter on his person. As defendant was placed inside the police car, he told Kowalski that he would "get [him] next time." Finally, approximately six months before the events leading to defendant's convictions, defendant and Kowalski had a similar altercation at the same bar. Hours later, a fire was intentionally set outside Kowalski's trailer, causing damage. This circumstantial evidence is sufficient to establish that defendant had the intent and opportunity to willfully and maliciously cause the fire damaging Kowalski's trailer and, therefore, committed arson.

Second, defendant argues that his convictions were contrary to the great weight of the evidence. We disagree. To determine whether a verdict is contrary to the great weight of the evidence, we review the whole body of proofs. *People v Herbert*, 444 Mich 466, 475; 511 NW2d 654 (1993), overruled in part on other grounds *People v Lemmon*, 456 Mich 625 (1998). A verdict is contrary to the great weight of the evidence if "the evidence preponderates so heavily against the verdict that it would be a miscarriage of justice to allow the verdict to stand." *Musser, supra* at 218-219.

Defendant argues that the evidence presented in support of his convictions was circumstantial, and that the great weight of the evidence, especially of the physical evidence, preponderates heavily against the verdict. Yet as discussed *supra*, circumstantial evidence and reasonable inferences arising from it are sufficient to establish guilt beyond a reasonable doubt. *Carines, supra* at 757.

First, we conclude that defendant's conviction for arson of a dwelling does not preponderate against the great weight of the evidence. The parties do not dispute that Kowalski's trailer was damaged by fire. And, as discussed *supra*, the evidence presented at trial established that the fire was set intentionally and that defendant had the motive and opportunity to commit arson.

In addition, although defendant claims otherwise, the testimonial evidence presented at trial tending to establish defendant's guilt was not contradicted by a lack of physical evidence

linking him to the crime. Defendant merely presented testimony that tended to show his innocence, i.e., that the cellophane wrapper found on Kowalski's porch did not come from his cigarette pack and that the fingerprints on the bicycle did not match his fingerprints. Although defendant notes that there was no physical evidence that he was in Kowalski's trailer before the fire was lit, police and other witnesses saw defendant near Kowalski's trailer after the fire started. Further, although defendant claimed that he was merely walking home from a local bar when police detained him, the trailer park was not on a direct route between the bar and defendant's home. Moreover, as discussed *supra*, the prosecution presented evidence that defendant had an altercation with Kowalski on the night of the fire and threatened Kowalski after his arrest. Thus, the evidence did not preponderate so heavily against the verdict that it would be a miscarriage of justice to let the verdict stand. Accordingly, we find that defendant's claim that his conviction for arson of a dwelling was against the great weight of the evidence is without merit.

Next, we hold that defendant's conviction for first-degree home invasion does not preponderate against the great weight of the evidence. MCL 750.110a(2) states:

A person who breaks and enters a dwelling with intent to commit a felony, larceny, or assault in the dwelling, a person who enters a dwelling without permission with intent to commit a felony, larceny, or assault in the dwelling, or a person who breaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a felony, larceny, or assault is guilty of home invasion in the first degree if at any time while the person is entering, present in, or exiting the dwelling either of the following circumstances exists:

(a) The person is armed with a dangerous weapon.

(b) Another person is lawfully present in the dwelling.

The fire occurred when a roll of carpet lying on two chairs in Kowalski's enclosed porch was ignited. A reasonable fact-finder could conclude that defendant would have entered the porch from outside to set the carpet on fire. Further, Kowalski was in the trailer at the time the fire was lit, but he had not given defendant permission to enter his trailer. Arson of a dwelling is a felony, MCL 750.72, and as discussed *supra*, defendant's conviction for arson of a dwelling does not preponderate against the great weight of the evidence. Accordingly, we conclude that the evidence presented at trial does not so heavily preponderate against a finding that defendant entered Kowalski's trailer, while Kowalski was inside, without Kowalski's permission and with an intent to commit arson that it would be a miscarriage of justice to let the verdict stand. Accordingly, we find that defendant's claim that his conviction for first-degree home invasion was against the great weight of the evidence is without merit.

Affirmed.

/s/ Donald S. Owens

/s/ Helene N. White

/s/ Joel P. Hoekstra